IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.519 OF 2005

In

WRIT PETITION NO.1613 OF 1997

Kranti Kamgar Union & Ors. : Petitioners

V/s.

Union of India & Ors. : Respondents

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Ms Shobhana Gopal for the petitioners.

Mr.S.S.Pakale for the respondents.

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CORAM : H.L.GOKHALE & S.R.DONGAONKAR,JJ.

DATE : MARCH 29, 2006.

P.C.

1. Heard Ms Gopal in support of this Motion and Mr.Pakale for the respondents.

2. Petitioner No.1 Union has taken out this Motion for the benefit of petitioner Nos.2 to 31 who are sweepers and Farash engaged by the Commissioner of Income-tax in the Income-tax office at Bandra. The petitioner’s Motion has three prayers. The first prayer is to seek the same wages which are paid to other casual workers. The second prayer is that persons who are junior to them either as daily

rated workers or casual labourers should not be made permanent until the claim of these petitioners is considered. The third prayer is that the salary should be paid on the 1st day of the succeeding month.

3. In the supporting affidavit, reliance is placed on an order passed by a Division Bench of this Court in this very matter on 11.3.2004. The order records the statement of the counsel appearing for the respondents in para 3 that the learned counsel does not dispute that from 1.1.2000, the members of petitioner No.1 Union are working as casual labourers with respondent Nos.1 to 4. In view of that statement, the Bench has further recorded that it could not be said that they were working as contract labourers and, therefore, the judgement of the apex Court in Steel Authority of India Ltd. & Ors. v. National Union of Waterfront Workers & Ors., reported in (2001) 7 SCC 1, will not apply. The order passed by the Division Bench very much remains and has not been disturbed.

4. Mr.Pakale, learned counsel for the respondents, sought time on an earlier occasion. The matter was adjourned. For want of instructions, he has not been able to file any reply. Even so, considering what is recorded above, the fact remains that the employees concerned are being treated as casual labourers by the Income-tax Department.

They are working directly under the Income-tax Department. That being so, surely, the Department of the Central Government cannot pay salary to such employees less than what is paid to other casual labourers. The claim of the petitioners, therefore, is quite legitimate. In the circumstances, we will have to grant and we, accordingly, grant prayer clause (a) of this Motion.

5. Prayer clause (b) is that persons who are junior to them either as daily rated workers or casual workers should not be made permanent until the claim of these petitioners is considered. Surely, this prayer also requires consideration and we, accordingly, grant the same.

6. The third prayer (c) is for payment being paid on 1st day of the succeeding month. That being the normal method of paying the salary, we grant this prayer also.

7. In the result, we allow the Motion in terms of prayer clauses (a), (b) and (c).

H.L. GOKHALE, J.

S.R.DONGAONKAR, J.